

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIFFANY RECINOS,

Plaintiff,

v.

CITY OF ORTING, WA UTILITIES, and
CITY OF ORTING, WA PUBLIC
WORKS,

Defendants.

CASE NO. 23-5772 RJB-GJL

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Grady J. Leupold. Dkt. 4. The Court has considered the Report and Recommendation (Dkt. 4), Plaintiff's objections (Dkt. 5) and remaining file.

On August 26, 2023, the Plaintiff, *pro se*, filed an application to proceed *informa pauperis* ("IFP") and proposed complaint asserting claims against the City of Orting utilities and public works in connection with issues related to her home's plumbing, septic system and gas leaks. Dkts. 1 and 1-1. (This is one of over twenty five cases the Plaintiff has filed this year. *See e.g. Recinos v. Washington State Insurance Commissioner*, U.S. Dist. Court for the

1 W.D. Wash. case number 3:23-cv-5098 DGE; *Recinos v. State of Washington, et. al.*, U.S. Dist.
2 Court for the W.D. Wash. case number 3:23-cv-5433 RSM; and *Recinos v. Child Protective*
3 *Services, et. al.*, U.S. Dist. Court for the W.D. Wash. case number 3:23-cv-5581 MJP.)

4 Her proposed complaint is difficult to understand. In it, she contends that several
5 contractors told her that there were septic and natural gas leak problems at her home. Dkt. 1-1 at
6 3. The Plaintiff maintains that “reports are being altered and redacted which eliminate
7 emergency responses.” *Id.* at 4. She asserts that the “[G]overnment did not provide emergent
8 services because public disclosure was exempted.” *Id.* at 3. The Plaintiff references the “ninth
9 amendment.” *Id.* As relief, she states she wants her plumbing, septic, and gas leaks fixed “and
10 everything else that was hidden in documented home insurance inspections with the exemption
11 of public disclosure.” *Id.* The proposed complaint acknowledges that the Plaintiff is a
12 Washington resident and the City of Orting is a Washington state entity. *Id.* at 3.

13 On September 11, 2023, the Report and Recommendation was filed and recommends
14 dismissal of this case without prejudice for failure to state a claim. Dkt. 4. It recommends
15 finding that amendment of the proposed complaint would be futile and recommends denial of the
16 IFP application. *Id.* The Plaintiff’s objections do not address any of the issues raised in the
17 Report and Recommendation. Dkt. 5.

18 The Report and Recommendation should be adopted. The Plaintiff has failed to state a
19 claim on which relief could be granted. The Ninth Amendment to the federal constitution
20 provides, “[t]he enumeration in the Constitution of certain rights, shall not be construed to deny
21 or disparage others retained by the people.” U.S. Const. amend IX. The Ninth Amendment “has
22 not been interpreted as independently securing any constitutional rights for purposes of making
23 out a constitutional violation.” *Schowengerdt v. United States*, 944 F.2d 483, 490 (9th Cir. 1991).

1 The Ninth Amendment is not a source of rights but “is simply a rule about how to read the
2 Constitution.” *San Diego Cnty. Gun Rights Comm. v. Reno*, 98 F.3d 1121, 1125 (9th Cir.
3 1996)(*cleaned up*).

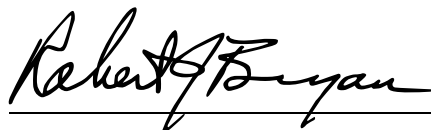
4 Further, the Plaintiff has failed to address the Report and Recommendation’s
5 recommendation that the Court find amendment of the proposed complaint is futile or that her
6 IFP application be denied. In her objections, she states she would like to “point out relevance
7 regarding reclamation and to the CERTIORARI conference to be held at the United States
8 America Supreme Court this month.” Dkt. 5 at 1 (*emphasis in original*). She contends that the
9 “reclamation process has ceased as this lawsuit segment started, which would lead one to belief
10 that the BUTTES homeowner associations involvement is prominent.” *Id.* The Plaintiff’s
11 objections additionally assert that “it identifies that the Insurance Commissioner did not exclude
12 public disclosure to them just to the Plaintiff.” *Id.* The Report and Recommendation (Dkt. 4)
13 should be adopted.

14 It is **ORDERED** that:

- 15 • The Report and Recommendation (Dkt. 4) **IS ADOPTED**;
 - 16 ○ The Plaintiff’s IFP application (Dkt. 1) **IS DENIED**; and
 - 17 ○ This case **IS DISMISSED WITHOUT PREJUDICE**.

18 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
19 to any party appearing pro se at said party’s last known address.

20 Dated this 12th day of October, 2023.

21 

22 ROBERT J. BRYAN
23 United States District Judge
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